



# PUBLIC NOTICE

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**DA 02-3153**  
**November 15, 2002**

## **CLOSED AUCTION OF LICENSES FOR CELLULAR UNSERVED SERVICE AREAS SCHEDULED FOR FEBRUARY 12, 2003**

### **Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments, and Other Auction Procedures**

#### **Report No. AUC-02-47-C (Auction No. 47)**

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## I. GENERAL INFORMATION

### A. Introduction

By this public notice, the Wireless Telecommunications Bureau (“Bureau”) announces the procedures and minimum opening bids for the upcoming auction of seven licenses to provide cellular service in unserved areas (“Auction No. 47”) scheduled for February 12, 2003.

In accordance with the Balanced Budget Act of 1997,<sup>1</sup> the Bureau released a public notice on September 16, 2002 seeking comment on reserve prices or minimum opening bids and the procedures to be used in Auction No. 47.<sup>2</sup> The Bureau received one comment and no reply comments in response to the *Auction No. 47 Comment Public Notice*.<sup>3</sup> The Bureau subsequently released a second public notice on October 25, 2002, revising the inventory, auction start date, and seeking comment on procedural issues.<sup>4</sup> The Bureau did not receive any comments in response to the *Auction No. 47 Revised Comment Public Notice*.

#### 1. Licenses to Be Auctioned

Participation in Auction No. 47 is limited to those applicants who have filed the long-form applications listed in Attachment A. All applications within a mutually exclusive applicant group (“MX Group”) are directly mutually exclusive with one another and therefore a single license will be auctioned for each MX Group identified in Attachment A.<sup>5</sup> The winning bidder for a particular MX Group will be authorized to construct only the facilities proposed in its long-form application(s) for that MX Group as identified in Attachment A.

As stated in the *Competitive Bidding Ninth Report and Order*, all pending mutually exclusive applications for unserved area licenses in the Cellular Radiotelephone Service must be resolved through a system of competitive bidding.<sup>6</sup> When the short-form applications of two or more applicants within an MX Group

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<sup>1</sup> Balanced Budget Act of 1997, Pub. L. No. 105-33, § 3002(a), 111 Stat. 251, (1997) (codified at 47 U.S.C. § 309(j)(4)(F)) (“Balanced Budget Act”). The Commission’s authority to establish a reserve price or minimum opening bid is set forth in 47 C.F.R. § 1.2104(c) and (d).

<sup>2</sup> Closed Auction of Licenses for Cellular Unserved Service Areas Scheduled for December 4, 2002; Comment Sought on Reserve Prices or Minimum Opening Bids and Other Auction Procedures, *Public Notice*, DA 02-2217 (rel. September 16, 2002) (“*Auction No. 47 Comment Public Notice*”).

<sup>3</sup> Western Wireless Corporation (“Western Wireless”) Comments, filed on September 27, 2002.

<sup>4</sup> Revised Inventory and Auction Start Date for Closed Auction of Licenses for Cellular Unserved Service Areas; Comment Sought on Reserve Prices or Minimum Opening Bids and Other Auction Procedures, *Public Notice*, DA 02-2797 (rel. October 25, 2002) (“*Auction No. 47 Revised Comment Public Notice*”).

<sup>5</sup> If within an MX Group, the winning bidder filed more than one long-form application, it may be granted separate authorizations for each long-form application.

<sup>6</sup> Implementation of Section 309(j) of the Communications Act – Competitive Bidding, PP Docket No. 93-253, Amendment of Part 22 of the Commission’s Rules to Provide for the Filing and Processing of Applications for Unserved Areas in the Cellular Service and to Modify Other Cellular Rules, CC Docket No. 90-6, *Ninth Report and Order*, 11 FCC Rcd 14769, 14770, ¶ 2 (1996) (“*Competitive Bidding Ninth Report and Order*”).

are accepted for filing, mutual exclusivity exists for auction purposes.<sup>7</sup> Once mutual exclusivity exists for auction purposes, even if only one applicant within an MX Group submits an upfront payment, that applicant is required to submit a bid in order to obtain the license.<sup>8</sup>

## **B. Rules and Disclaimers**

### **1. Relevant Authority**

Prospective bidders must familiarize themselves thoroughly with the Commission's rules relating to the Cellular Radiotelephone Service contained in Title 47, Part 22 of the Code of Federal Regulations,<sup>9</sup> and those relating to application and auction procedures, contained in Title 47, Part 1 of the Code of Federal Regulations. Prospective bidders must also be thoroughly familiar with the procedures, terms and conditions (collectively, "Terms") contained in this Public Notice; the *Auction No. 47 Comment Public Notice* and the *Auction No. 47 Revised Comment Public Notice*; and the *Part 1 Fifth Report and Order* (as well as prior and subsequent Commission proceedings regarding competitive bidding procedures).<sup>10</sup>

Auction participants bidding on licenses for cellular unserved service areas should also be familiar with the *Competitive Bidding Ninth Report and Order*.<sup>11</sup>

The terms contained in the Commission's rules, relevant orders, and public notices are not negotiable. The Commission may amend or supplement the information contained in our public notices at any time,

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<sup>7</sup> See Implementation of Section 309(j) of the Communications Act – Competitive Bidding, PP Docket No. 93-252, *Second Report and Order*, 9 FCC Rcd 2348, 2376, ¶ 165 (1994) (“*Competitive Bidding Second Report and Order*”).

<sup>8</sup> Any applicant that submits a short-form application that is accepted for filing but fails to timely submit an upfront payment will retain its place in the MX Group but, having purchased no bidding eligibility, will not be eligible to bid.

<sup>9</sup> Bidders should note that the Commission recently amended Part 22 of its rules to eliminate or modify certain rules that have become outdated due to technological change, increased competition in the Commercial Mobile Radio Services, or supervening rules. See Year 2000 Biennial Regulatory Review — Amendment of Part 22 of the Commission's Rules to Modify or Eliminate Outdated Rules Affecting the Cellular Radiotelephone Service and other Commercial Mobile Radio Services, WT Docket No. 01-108, *Report and Order*, FCC 02-229 (rel. September 24, 2002); Year 2000 Biennial Regulatory Review — Amendment of Part 22 of the Commission's Rules to Modify or Eliminate Outdated Rules Affecting the Cellular Radiotelephone Service and other Commercial Mobile Radio Services, WT Docket No. 01-108, *Second Report and Order*, FCC 02-247 (rel. September 24, 2002).

<sup>10</sup> Amendment of Part 1 of the Commission's Rules—Competitive Bidding Procedures, WT Docket No. 97-82, *Order on Reconsideration of the Third Report and Order, Fifth Report and Order, and Fourth Further Notice of Proposed Rule Making*, 15 FCC Rcd 15293 (2000) (modified by Erratum, DA 00-2475 (rel. Nov. 3, 2000)) (“*Part 1 Fifth Report and Order*”) (recons. pending). The Commission has further amended Section 1.2105 of the Competitive Bidding Rules. In the Matter of Amendment of Part 1 of the Commission's Rules -- Competitive Bidding Procedures, *Seventh Report and Order*, 16 FCC Rcd 17546, 17555, ¶ 17 (2001) (“*Part 1 Seventh Report and Order*”). See *infra* note 21. On February 8, 2002, the Commission further amended Section 1.2110 of the Competitive Bidding Rules. Amendment of Part 1 of the Commission's Rules – Competitive Bidding Procedures, *Eighth Report and Order*, FCC 02-34 (rel. February 13, 2002).

<sup>11</sup> See n.6, *supra*.

and will issue public notices to convey any new or supplemental information to bidders. It is the responsibility of all prospective bidders to remain current with all Commission rules and with all public notices pertaining to this auction. Copies of most Commission documents, including public notices, can be retrieved from the FCC Auctions Internet site at <http://wireless.fcc.gov/auctions>. Additionally, documents are available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY-A257, Washington, DC, 20554 or may be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail [qualexint@aol.com](mailto:qualexint@aol.com). When ordering documents from Qualex, please provide the appropriate FCC number (for example, FCC 96-361 for the *Competitive Bidding Ninth Report and Order*).

## 2. Prohibition of Collusion

To ensure the competitiveness of the auction process, the Commission's rules prohibit competing applicants from communicating with each other during the auction about bids, bidding strategies, or settlements.<sup>12</sup> This prohibition begins at the short-form application filing deadline and ends at the down payment deadline after the auction.

Bidders in Auction No. 47 are encouraged not to use the same individual as an authorized bidder. A violation of the anti-collusion rule could occur if an individual acts as the authorized bidder for two or more competing applicants, and conveys information concerning the substance of bids or bidding strategies between the bidders he or she is authorized to represent in the auction. A violation could similarly occur if the authorized bidders are different individuals employed by the same organization (e.g., law firm or consulting firm). In such a case, at a minimum, applicants should certify on their applications that precautionary steps have been taken to prevent communication between authorized bidders and that applicants and their bidding agents will comply with the anti-collusion rule.<sup>13</sup> However, the Bureau cautions that merely filing a certifying statement as part of an application will not outweigh specific evidence that collusive behavior has occurred, nor will it preclude the initiation of an investigation when warranted.<sup>14</sup>

Applicants may enter into bidding agreements before filing their FCC Form 175, as long as they disclose the existence of the agreement(s) in their Form 175.<sup>15</sup> If parties agree in principle on all material terms prior to the short-form filing deadline, those parties must be identified on the short-form application pursuant to Section 1.2105(c), even if the agreement has not been reduced to writing. If the parties have not agreed in principle by the filing deadline, an applicant would not include the names of those parties on its application, and may not continue negotiations with other competing applicants.<sup>16</sup> By signing their FCC Form 175 short-form applications, applicants are certifying their compliance with Section 1.2105(c).

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<sup>12</sup> See *Part 1 Fifth Report and Order*, 15 FCC Rcd at 15297-98, ¶¶ 7-8; see also 47 C.F.R. § 1.2105.

<sup>13</sup> See *In re Application of Nevada Wireless for a License to Provide 800 MHz Specialized Mobile Radio Service in the Farmington, NM-CO Economic Area (EA-155) Frequency Band A*, *Memorandum Opinion and Order*, 13 FCC Rcd. 11973, 11977 ¶ 11 (1998) ("*Nevada Wireless*").

<sup>14</sup> See *id.*, at 11978.

<sup>15</sup> 47 C.F.R. § 1.2105(c).

<sup>16</sup> See *Wireless Telecommunications Bureau Clarifies Spectrum Auction Anti-Collusion Rules*, *Public Notice*, 11 FCC Rcd 9645 (1995).

In addition, Section 1.65 of the Commission's rules requires an applicant to *maintain* the accuracy and completeness of information furnished in its pending application and to notify the Commission within 30 days of any substantial change that may be of decisional significance to that application.<sup>17</sup> Thus, Section 1.65 requires an auction applicant to notify the Commission of any violation of the anti-collusion rules upon learning of such violation. Bidders therefore are required to make such notification to the Commission immediately upon discovery.<sup>18</sup>

A summary listing of documents from the Commission and the Bureau addressing the application of the anti-collusion rules may be found in Attachment E.

### 3. Due Diligence

Potential bidders also should be aware that certain applications (including those for modification), petitions for rulemaking, requests for special temporary authority ("STA") waiver requests, petitions to deny, petitions for reconsideration, and applications for review may be pending before the Commission and relate to particular applicants or incumbent licensees. We note that resolution of these matters could have an impact on the availability of spectrum in Auction No. 47. In addition, although the Commission will continue to act on pending applications, requests and petitions, some of these matters may not be resolved by the time of the auction.

**Potential bidders are solely responsible for identifying associated risks and for investigating and evaluating the degree to which such matters may affect their ability to bid on, otherwise acquire, or make use of licenses available in Auction No. 47.**

The Commission makes no representations or guarantees regarding the accuracy or completeness of information in its databases or any third party databases, including, for example, court docketing systems. Furthermore, the Commission makes no representations or guarantees regarding the accuracy or completeness of information that has been provided by incumbent licensees and incorporated into the database. Potential bidders are strongly encouraged to physically inspect any sites located in, or near, the unserved areas for which they plan to bid.

### 4. Bidder Alerts

All applicants must certify on their FCC Form 175 applications under penalty of perjury that they are legally, technically, financially and otherwise qualified to hold a license, and not in default on any payment for Commission licenses (including down payments) or delinquent on any non-tax debt owed to any Federal agency.<sup>19</sup> Prospective bidders are reminded that submission of a false certification to the Commission is a serious matter that may result in severe penalties, including monetary forfeitures, license revocations, exclusion from participation in future auctions, and/or criminal prosecution.

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<sup>17</sup> 47 C.F.R. § 1.65.

<sup>18</sup> The Commission amended Section 1.2105 to require auction applicants to report prohibited communications in writing to the Commission immediately, but in no case later than five business days after the communication occurs. *Part 1 Seventh Report and Order*, 16 FCC Rcd at 17555, ¶ 17.

<sup>19</sup> 47 C.F.R. § 1.2105.

**The FCC makes no representations or warranties about the use of this spectrum for particular services. Applicants should be aware that an FCC auction represents an opportunity to become an FCC licensee in this service, subject to certain conditions and regulations. An FCC auction does not constitute an endorsement by the FCC of any particular services, technologies or products, nor does an FCC license constitute a guarantee of business success. Applicants and interested parties should perform their own due diligence before proceeding, as they would with any new business venture.**

As is the case with many business investment opportunities, some unscrupulous entrepreneurs may attempt to use Auction No. 47 to deceive and defraud unsuspecting investors. Common warning signals of fraud include the following:

- The first contact is a “cold call” from a telemarketer, or is made in response to an inquiry prompted by a radio or television infomercial.
- The offering materials used to invest in the venture appear to be targeted at IRA funds, for example, by including all documents and papers needed for the transfer of funds maintained in IRA accounts.
- The amount of investment is less than \$25,000.
- The sales representative makes verbal representations that: (a) the Internal Revenue Service (“IRS”), Federal Trade Commission (“FTC”), Securities and Exchange Commission (“SEC”), FCC, or other government agency has approved the investment; (b) the investment is not subject to state or federal securities laws; or (c) the investment will yield unrealistically high short-term profits. In addition, the offering materials often include copies of actual FCC releases, or quotes from FCC personnel, giving the appearance of FCC knowledge or approval of the solicitation.

Information about deceptive telemarketing investment schemes is available from the FTC at (202) 326-2222 and from the SEC at (202) 942-7040. Complaints about specific deceptive telemarketing investment schemes should be directed to the FTC, the SEC, or the National Fraud Information Center at (800) 876-7060. Consumers who have concerns about specific proposals regarding Auction No. 47 may also call the FCC Consumer Center at (888) CALL-FCC ((888) 225-5322).

## **5. National Environmental Policy Act (“NEPA”) Requirements**

Licenses must comply with the Commission’s rules regarding the National Environmental Policy Act (NEPA).<sup>20</sup> The construction of a wireless antenna facility is a federal action, and the licensee must comply with the Commission’s NEPA rules for each such facility.<sup>21</sup> The Commission’s NEPA rules require, among other things, that the licensee consult with expert agencies having NEPA responsibilities, including the U.S. Fish and Wildlife Service, the State Historic Preservation Office, the Army Corp of Engineers and the Federal Emergency Management Agency (through the local authority with jurisdiction over floodplains). The licensee must prepare environmental assessments for facilities that may have a

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<sup>20</sup> See 47 C.F.R. Ch. 1, Subpart I.

<sup>21</sup> See 47 C.F.R. §§ 1.1305-1.1319.

significant impact in or on wilderness areas, wildlife preserves, threatened or endangered species or designated critical habitats, historical or archaeological sites, Indian religious sites, floodplains, and surface features. The licensee must also prepare environmental assessments for facilities that include high intensity white lights in residential neighborhoods or excessive radio frequency emission.

**C. Auction Specifics**

**1. Auction Date**

The auction will be held on Wednesday, February 12, 2003. Unless otherwise announced, all seven licenses will be offered at the same time with bidders placing one bid per license. The start and finish times for the bidding round will be announced by public notice at least one week before the start of the auction.

**2. Auction Title**

Auction No. 47 – Closed Cellular Unserved

**3. Bidding Methodology**

The bidding methodology for Auction No. 47 will be single-round sealed-bid. The Commission will conduct this auction over the Internet. Telephonic bidding will also be available. As a contingency, the FCC Wide Area Network will be available as well. Qualified bidders are permitted to bid telephonically or electronically.

**4. Pre-Auction Dates and Deadlines**

Short-Form Application (FCC FORM 175) .....	January 13, 2003; 6:00 p.m. ET
Upfront Payments (via wire transfer) .....	January 27, 2003; 6:00 p.m. ET
Mock Auction .....	February 7, 2003
Auction .....	February 12, 2003

**5. Requirements for Participation**

Those wishing to participate in the auction must:

- Submit a short-form application (FCC Form 175) electronically by 6:00 p.m. ET, January 13, 2003.
- Submit a sufficient upfront payment and an FCC Remittance Advice Form (FCC Form 159) by 6:00 p.m. ET, January 27, 2003.
- Comply with all provisions outlined in this public notice.

## 6. General Contact Information

### GENERAL AUCTION INFORMATION

General Auction Questions

FCC Auctions Hotline  
(888) 225-5322, Press Option #2  
or direct (717) 338-2888  
Hours of service: 8 a.m. – 5:30 p.m. ET

### AUCTION LEGAL INFORMATION

Auction Rules, Policies, Regulations

Auctions and Industry Analysis Division  
Legal Branch (202) 418-0660

### LICENSING INFORMATION

Rules, Policies, Regulations  
Licensing Issues  
Due Diligence  
Incumbency Issues

Commercial Wireless Division  
(202) 418-0620

### TECHNICAL SUPPORT

Electronic Filing  
Automated Auction System

FCC Auctions Technical Support Hotline  
(202) 414-1250 (Voice),  
(202) 414-1255 (TTY)  
Hours of service: Monday through Friday 8 a.m. to  
6:00 p.m. ET

### PAYMENT INFORMATION

Wire Transfers  
Refunds

FCC Auctions Accounting Branch  
(202) 418-1995  
(202) 418-2843 (Fax)

### TELEPHONIC BIDDING

Will be furnished only to qualified bidders

### FCC COPY CONTRACTOR

Additional Copies of  
Commission Documents

Qualex International  
Portals II, 445 12<sup>th</sup> Street, SW, Room CY-B402  
Washington, DC 20554  
(202) 863-2893  
(202) 863-2898 (Fax)  
qualexint@aol.com (E-mail)

### PRESS INFORMATION

Lauren Kravetz (202) 418-7944

### FCC FORMS

(800) 418-3676 (outside Washington, DC)  
(202) 418-3676 (in the Washington Area)  
<http://www.fcc.gov/formpage.html>

### FCC INTERNET SITES

<http://www.fcc.gov>  
<http://wireless.fcc.gov/auctions>  
<http://wireless.fcc.gov/uls>

## II. SHORT-FORM (FCC FORM 175) APPLICATION REQUIREMENTS

Guidelines for completion of the short-form application (FCC Form 175) are set forth in Attachment C to this public notice. The short-form application seeks the applicant's name and address, legal classification, status, identification of the license(s) sought, the authorized bidders and contact persons. Applicants must certify on their FCC Form 175 applications under penalty of perjury that they are legally, technically, financially and otherwise qualified to hold a license and, as discussed below in Section II.D. (Provisions Regarding Defaulters and Former Defaulters), that they are not in default on any payment for Commission licenses (including down payments) or delinquent on any non-tax debt owed to any Federal agency.

The Commission determines whether mutual exclusivity exists for auction purposes by reviewing all of the short-form (FCC Form 175) applications that have been accepted for filing. In the event that review of all the FCC Form 175 applications accepted for filing determines that only one applicant in a given MX Group has applied for the license to be auctioned for that MX Group, that license will be removed from the auction. In such a case, the Commission will process the long-form application(s) of the party that applied for the given license on its FCC Form 175 and dismiss the long-form application(s) of the other applicant. In the event that neither applicant in a given MX Group applies for the license to be auctioned for that MX Group, the long-form application(s) of both applicants will be dismissed.

### A. Ownership Disclosure Requirements (FCC Form 175 Exhibit A)

Applicants must comply with the uniform Part 1 ownership disclosure standards and provide information required by Sections 1.2105 and 1.2112 of the Commission's rules. Specifically, in completing FCC Form 175, applicants will be required to file an "Exhibit A" providing a full and complete statement of the ownership of the bidding entity. The ownership disclosure standards for the short-form are set forth in Section 1.2112 of the Commission's rules.<sup>22</sup>

### B. Consortia and Joint Bidding Arrangements (FCC Form 175 Exhibit B)

Applicants will be required to identify on their short-form applications any parties with whom they have entered into any consortium arrangements, joint ventures, partnerships or other agreements or understandings which relate in any way to the licenses being auctioned, including any agreements relating to post-auction market structure.<sup>23</sup> Applicants will also be required to certify on their short-form applications that they have not entered into any explicit or implicit agreements, arrangements or understandings of any kind with any parties, other than those identified, regarding the amount of their bids, bidding strategies, or the particular licenses on which they will or will not bid.<sup>24</sup> As discussed above, if an applicant has had discussions, but has not reached a joint bidding agreement by the short-form deadline, it would not include the names of parties to the discussions on its applications and may not

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<sup>22</sup> 47 C.F.R. § 1.2105 requires the disclosure on the short-form of the applicant's ownership information as set forth in 47 C.F.R. § 1.2112. Note that both of these sections were revised in the *Part 1 Fifth Report and Order*.

<sup>23</sup> 47 C.F.R. §§ 1.2105(a)(2)(viii), (c)(1).

<sup>24</sup> 47 C.F.R. § 1.2105(a)(2)(ix).

continue discussions with competing applicants after the deadline.<sup>25</sup> Where applicants have entered into consortia or joint bidding arrangements, applicants must submit an “Exhibit B” to the FCC Form 175.

A party holding a non-controlling, attributable interest in one applicant will be permitted to acquire an ownership interest in, form a consortium with, or enter into a joint bidding arrangement with other competing applicants provided that (i) the attributable interest holder certifies that it has not and will not communicate with any party concerning the bids or bidding strategies of more than one of the applicants in which it holds an attributable interest, or with which it has formed a consortium or entered into a joint bidding arrangement; and (ii) the arrangements do not result in a change in control of any of the applicants.<sup>26</sup> While the anti-collusion rules do not prohibit non-auction related business negotiations among auction applicants, bidders are reminded that certain discussions or exchanges could touch upon impermissible subject matters because they may convey pricing information and bidding strategies.

### C. Bidding Credit Eligibility

Bidding credits for designated entities will not be available in Auction No. 47. To encourage the growth of wireless services in federally recognized tribal lands the Commission has implemented a tribal land bidding credit. *See* Section V.C, *infra*.

### D. Provisions Regarding Defaulters and Former Defaulters (FCC Form 175 Exhibit C)

Each applicant must certify on its FCC Form 175 application that it is not in default on any Commission licenses and that it is not delinquent on any non-tax debt owed to any Federal agency.<sup>27</sup> In addition, each applicant must attach to its FCC Form 175 application a statement made under penalty of perjury indicating whether or not the applicant, its affiliates, its controlling interests, or the affiliates of its controlling interest have ever been in default on any Commission licenses or have ever been delinquent on any non-tax debt owed to any Federal agency. The applicant must provide such information for itself, its affiliates, its controlling interests, and the affiliates of its controlling interests, as defined by Section 1.2110 of the Commission’s rules (as amended in the *Part 1 Fifth Report and Order*).<sup>28</sup> **Applicants must include this statement as Exhibit C of the FCC Form 175.** Prospective bidders are reminded that the statement must be made under penalty of perjury and, further, submission of a false certification to the Commission is a serious matter that may result in severe penalties, including monetary forfeitures, license revocations, exclusion from participation in future auctions, and/or criminal prosecution.

“Former defaulters” — *i.e.*, applicants, including their attributable interest holders, that in the past have defaulted on any Commission licenses or been delinquent on any non-tax debt owed to any Federal agency, but that have since remedied all such defaults and cured all of their outstanding non-tax delinquencies — are eligible to bid in Auction No. 47, provided that they are otherwise qualified. However, as discussed *infra* in Section III.D.3, former defaulters are required to pay upfront payments that are fifty percent more than the normal upfront payment amounts.<sup>29</sup>

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<sup>25</sup> *See* Section I.B.2 “Prohibition of Collusion,” *supra*.

<sup>26</sup> *See* 47 C.F.R. § 1.2105(c)(4)(i), (ii).

<sup>27</sup> 47 C.F.R. § 1.2105(a)(2)(x).

<sup>28</sup> 47 C.F.R. § 1.2105(a)(2)(xi).

<sup>29</sup> 47 C.F.R. § 1.2106(a).

#### **E. Installment Payments**

Installment payment plans will not be available in Auction No. 47.

#### **F. Other Information (FCC Form 175 Exhibits D and E)**

Applicants owned by minorities or women, as defined in 47 C.F.R. § 1.2110(c)(2), may attach an exhibit (Exhibit D) regarding this status. This applicant status information is collected for statistical purposes only and assists the Commission in monitoring the participation of “designated entities” in its auctions. Applicants wishing to submit additional information may do so on Exhibit E (Miscellaneous Information) to the FCC Form 175.

#### **G. Minor Modifications to Short-Form Applications (FCC Form 175)**

After the short-form filing deadline (January 13, 2003), applicants may make only minor changes to their FCC Form 175 applications. Applicants will not be permitted to make major modifications to their applications (*e.g.*, change their license selections or proposed service areas, change the certifying official or change control of the applicant). *See* 47 C.F.R. § 1.2105. Permissible minor changes include, for example, deletion and addition of authorized bidders (to a maximum of three) and revision of exhibits. Applicants must make these modifications to their FCC Form 175 electronically and should submit a letter, briefly summarizing the changes, by electronic mail to the attention of Margaret Wiener, Chief, Auctions and Industry Analysis Division, at the following address: [auction47@fcc.gov](mailto:auction47@fcc.gov). The electronic mail summarizing the changes should include a subject or caption referring to Auction No. 47. The Bureau requests that parties format any attachments to electronic mail as Adobe® Acrobat® (pdf) or Microsoft® Word documents.

**A separate copy of the letter should be faxed to the attention of Kathryn Garland at (717) 338-2850.** Questions about other changes should be directed to Kenneth Burnley of the Auctions and Industry Analysis Division at (202) 418-0660.

#### **H. Maintaining Current Information in Short-Form Applications (FCC Form 175)**

Applicants have an obligation under 47 C.F.R. §1.65, to maintain the completeness and accuracy of information in their short-form applications. Amendments reporting substantial changes of possible decisional significance in information contained in FCC Form 175 applications, as defined by 47 C.F.R. § 1.2105(b)(2), will not be accepted and may in some instances result in the dismissal of the FCC Form 175 application.

### **III. PRE-AUCTION PROCEDURES**

#### **A. Auction Seminar**

An auction seminar will not be held for Auction No. 47. Applicants having questions about pre-auction procedures, conduct of the auction, the FCC Automated Auction System, or the Cellular Radiotelephone Service and auction rules are encouraged to contact the appropriate staff listed in this Public Notice.

## **B. Short-Form Application (FCC Form 175) — Due January 13, 2003**

In order to be eligible to bid in this auction, each applicant must first submit an FCC Form 175 application with the license(s) selected. This application must be submitted electronically and received at the Commission no later than 6:00 p.m. ET on January 13, 2003. Late applications will not be accepted.

There is no application fee required when filing an FCC Form 175. However, to be eligible to bid, an applicant must submit an upfront payment. *See Part III.D, below.*

### **1. Electronic Filing**

Applicants must file their FCC Form 175 applications electronically.<sup>30</sup> Applications may generally be filed at any time beginning at 9:00 a.m. ET on January 7, 2003, until 6:00 p.m. ET on January 13, 2003. Applicants are strongly encouraged to file early and are responsible for allowing adequate time for filing their applications. Applicants may update or amend their electronic applications multiple times until the filing deadline of 6:00 p.m. ET on January 13, 2003.

Applicants must press the “SUBMIT Application” button on the “Submission” page of the electronic form to successfully submit their FCC Form 175s. Any form that is not submitted will not be reviewed by the FCC. Information about accessing the FCC Form 175 is included in Attachment B. Technical support is available at (202) 414-1250 (voice) or (202) 414-1255 (text telephone (TTY)); hours of service Monday through Friday, from 8:00 AM to 6:00 p.m. ET. In order to provide better service to the public, *all calls to the hotline are recorded.*

Applicants can also contact Technical Support via e-mail. To obtain the address, click the **Support** tab on the Form 175 Homepage.

### **2. Completion of the FCC Form 175**

Applicants should carefully review 47 C.F.R. § 1.2105, and must complete all items on the FCC Form 175. Instructions for completing the FCC Form 175 are in Attachment C of this public notice. Applicants are encouraged to begin preparing the required attachments for FCC Form 175 prior to submitting the form. Attachments B and C to this public notice provide information on the required attachments and appropriate formats.

### **3. Electronic Review of FCC Form 175**

The FCC Form 175 electronic review system may be used to locate and print applicants’ FCC Form 175 information. Applicants may also view other applicants’ completed FCC Form 175s after the filing deadline has passed and the FCC has issued a public notice explaining the status of the applications. For this reason, it is important that applicants do not include their Taxpayer Identification Numbers (TINs) on any exhibits to their FCC Form 175 applications. There is no fee for accessing this system. *See Attachment B for details on accessing the review system.*

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<sup>30</sup> *See 47 C.F.R. § 1.2105(a).*

### **C. Application Processing and Minor Corrections**

After the deadline for filing the FCC Form 175 applications has passed, the FCC will process all timely-submitted applications to determine which are acceptable for filing, and subsequently will issue a public notice identifying: (1) those applications accepted for filing; (2) those applications rejected; and (3) those applications which have minor defects that may be corrected, and the deadline for filing such corrected applications.

As described more fully in the Commission's rules, after the January 13, 2003, short-form filing deadline, applicants may make only minor corrections to their FCC Form 175 applications. Applicants will not be permitted to make major modifications to their applications (*e.g.*, change their license selections, change the certifying official, or change control of the applicant).<sup>31</sup>

### **D. Upfront Payments — Due January 27, 2003**

In order to be eligible to bid in the auction, applicants must submit an upfront payment accompanied by an FCC Remittance Advice Form (FCC Form 159). After completing the FCC Form 175, filers will have access to an electronic version of the FCC Form 159 that can be printed and faxed to Mellon Bank in Pittsburgh, PA. All upfront payments must be received at Mellon Bank by 6:00 p.m. ET on January 27, 2003.

Please note that:

- All payments must be made in U.S. dollars.
- All payments must be made by wire transfer.
- Upfront payments for Auction No. 47 go to a lockbox number different from the lockboxes used in previous FCC auctions, and different from the lockbox number to be used for post-auction payments.
- Failure to deliver the upfront payment by the January 27, 2003, deadline will result in dismissal of the application and disqualification from participation in the auction.

#### **1. Making Auction Payments by Wire Transfer**

**Wire transfer payments must be received by 6:00 p.m. ET on January 27, 2003.** To avoid untimely payments, applicants should discuss arrangements (including bank closing schedules) with their banker several days before they plan to make the wire transfer, and allow sufficient time for the transfer to be initiated and completed before the deadline. Applicants will need the following information:

ABA Routing Number: 043000261  
Receiving Bank: Mellon Pittsburgh  
BENEFICIARY: FCC/Account # 910-0198  
OBI Field: (Skip one space between each information item)  
"AUCTIONPAY"  
FCC REGISTRATION NUMBER (FRN): (same as FCC Form 159, block 11 and/or 21)

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<sup>31</sup> See 47 C.F.R. § 1.2105; *see also* Two Way Radio of Carolina, Inc., *Memorandum, Opinion and Order*, 14 FCC Rcd. 12035 (1999).

PAYMENT TYPE CODE (same as FCC Form 159, block 24A: A47U)  
FCC CODE 1 (same as FCC Form 159, block 28A: “47”)  
PAYER NAME (same as FCC Form 159, block 2)  
LOCKBOX NO. # 358410

**NOTE:** The BNF and Lockbox number are specific to the upfront payments for this auction; do not use BNF or Lockbox numbers from previous auctions.

Applicants must fax a completed FCC Form 159 (Revised 2/00) to Mellon Bank at (412) 209-6045 **at least one hour before** placing the order for the wire transfer (but on the same business day). On the cover sheet of the fax, write “Wire Transfer — Auction Payment for Auction Event No. 47.” **Bidders should confirm receipt of their upfront payment at Mellon Bank by contacting their sending financial institution.**

## 2. FCC Form 159

A completed FCC Remittance Advice Form (FCC Form 159, Revised 2/00) must be faxed to Mellon Bank in order to accompany each upfront payment. Proper completion of FCC Form 159 (Revised 2/00) is critical to ensuring correct credit of upfront payments. Detailed instructions for completion of FCC Form 159 are included in Attachment D to this public notice. An electronic version of the FCC Form 159 is available after filing the FCC Form 175. The FCC Form 159 can be completed electronically, but must be filed with Mellon Bank via facsimile.

## 3. Amount of Upfront Payment

In the *Part 1 Order, Memorandum Opinion and Order, and Notice of Proposed Rule Making*, the Commission delegated to the Bureau the authority and discretion to determine appropriate upfront payment(s) for each auction.<sup>32</sup> In addition, in the *Part 1 Fifth Report and Order*, the Commission ordered that “former defaulters,” *i.e.*, applicants that have ever been in default on any Commission license or have ever been delinquent on any non-tax debt owed to any Federal agency, be required to pay upfront payments fifty percent greater than non-“former defaulters.”<sup>33</sup>

In both the *Auction No. 47 Comment Public Notice* and *Auction No. 47 Revised Comment Public Notice*, we proposed that the amount of the upfront payment would determine the number of bidding units on which a bidder may place bids.<sup>34</sup> In order to bid on a license, otherwise qualified bidders that applied for that license on Form 175 must have an eligibility level that meets or exceeds the number of bidding units assigned to that license. At a minimum, therefore, an applicant’s total upfront payment must be enough to establish eligibility to bid on at least one of the licenses applied for on Form 175, or else the applicant will not be eligible to participate in the auction. An applicant does not have to make an upfront payment to cover all licenses for which the applicant has applied on Form 175, but rather to cover the maximum number of bidding units that are associated with licenses on which the bidder wishes to place a bid.

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<sup>32</sup> Amendment of Part 1 of the Commission’s rules — Competitive Bidding Proceeding, WT Docket No. 97-82, *Order, Memorandum Opinion and Order and Notice of Proposed Rule Making*, 12 FCC Rcd. 5686, 5697-5698, ¶ 16 (1997) (“*Part 1 Order*”).

<sup>33</sup> *Part 1 Fifth Report and Order*, 15 FCC Rcd at 15316-17, ¶¶ 40-42; 47 C.F.R. § 1.2106(a); *see* 47 C.F.R. §§1.2105(a)(2)(xi).

<sup>34</sup> *See Auction No. 47 Comment Public Notice* at 2; *Auction No. 47 Revised Comment Public Notice* at 2.

In both the *Auction No. 47 Comment Public Notice* and *Auction No. 47 Revised Comment Public Notice*, the Bureau proposed to set the upfront payment for each license at \$500 per license.<sup>35</sup> Having received no comments regarding the amount of the proposed upfront payments, we therefore adopt our proposed upfront payment amounts for Auction No. 47. The specific upfront payments and bidding units for each license are set forth in Attachment A of this Public Notice.

In calculating its upfront payment amount, an applicant should determine the maximum number of bidding units on which it may wish to bid on, and submit an upfront payment covering that number of bidding units. In order to make this calculation, an applicant should add together the upfront payments for all licenses on which it plans to bid. **Bidders should check their calculations carefully, as there is no provision for increasing a bidder's maximum eligibility after the upfront payment deadline.**

Former defaulters should calculate their upfront payment for all licenses by multiplying the number of bidding units they wish to purchase by 1.5. In order to calculate the number of bidding units to assign to former defaulters, the Commission will divide the upfront payment received by 1.5 and round the result up to the nearest bidding unit.

NOTE: An applicant may, on its FCC Form 175, apply for every applicable license being offered, but its actual bidding will be limited by the bidding units reflected in its upfront payment.

#### **4. Applicant's Wire Transfer Information for Purposes of Refunds of Upfront Payments**

The Commission will use wire transfers for all Auction No. 47 refunds. To ensure that refunds of upfront payments are processed in an expeditious manner, the Commission is requesting that all pertinent information as listed below be supplied to the FCC. Applicants can provide the information electronically during the initial short-form filing window after the form has been submitted. Wire Transfer Instructions can also be manually faxed to the FCC, Financial Operations Center, Auctions Accounting Group, ATTN: Tim Dates or Gail Glasser, at (202) 418-2843 by January 27, 2003. All refunds will be returned to the payer of record as identified on the FCC Form 159 unless the payer submits written authorization instructing otherwise. For additional information, please call Gail Glasser at (202) 418-0578 or Tim Dates at 202-418-0496.

Name of Bank  
ABA Number  
Contact and Phone Number  
Account Number to Credit  
Name of Account Holder  
FCC Registration Number (FRN)  
Taxpayer Identification Number (see below)  
Correspondent Bank (if applicable)  
ABA Number  
Account Number

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<sup>35</sup> *Id.*

(Applicants should also note that implementation of the Debt Collection Improvement Act of 1996 requires the FCC to obtain a Taxpayer Identification Number (TIN) before it can disburse refunds.) Eligibility for refunds is discussed in Part V.E., *infra*.

#### **E. Auction Registration**

Approximately ten days before the auction, the FCC will issue a public notice announcing all qualified bidders for the auction. Qualified bidders are those applicants whose FCC Form 175 applications have been accepted for filing and have timely submitted upfront payments sufficient to make them eligible to bid on at least one of the licenses for which they applied.

All qualified bidders are automatically registered for the auction. Registration materials will be distributed prior to the auction by two separate overnight mailings, one containing the confidential bidder identification number (BIN) required to place bids and the other containing the SecurID cards. These mailings will be sent only to the contact person at the contact address listed on the FCC Form 175.

Applicants that do not receive both registration mailings will not be able to submit bids. Therefore, any qualified applicant that has not received both mailings by noon on Wednesday, February 5, 2003 should contact the Auctions Hotline at (717) 338-2888. Receipt of both registration mailings is critical to participating in the auction, and each applicant is responsible for ensuring it has received all of the registration material.

Qualified bidders should note that lost bidder identification numbers or SecurID cards can be replaced only by appearing in person at the FCC Auction Headquarters located at 445 12<sup>th</sup> St., SW, Washington, DC 20554. Only an authorized representative or certifying official, as designated on an applicant's FCC Form 175, may appear in person with two forms of identification (one of which must be a photo identification) in order to receive replacements. Qualified bidders requiring replacements must call technical support prior to arriving at the FCC.

#### **F. Electronic Bidding**

The Commission will conduct this auction over the Internet. Telephonic bidding will also be available. As a contingency, the FCC Wide Area Network will be available as well. Qualified bidders are permitted to bid electronically or telephonically, *i.e.*, over the Internet or the FCC's Wide Area Network. In either case, **each authorized bidder** must have its own Remote Security Access SecurID card, which the FCC will provide at no charge. Each applicant with less than three authorized bidders will be issued two SecurID cards, while applicants with three authorized bidders will be issued three cards. For security purposes, the SecurID cards and the FCC Automated Auction System user manual are only mailed to the contact person at the contact address listed on the FCC Form 175. Please note that each SecurID card is tailored to a specific auction, therefore, SecurID cards issued for other auctions or obtained from a source other than the FCC will not work for Auction No. 47. The telephonic bidding phone number will be supplied in the first overnight mailing, which also includes the confidential bidder identification number. Each applicant should indicate its bidding preference—electronic or telephonic—on the FCC Form 175.

Please note that the SecurID cards can be recycled, and we encourage bidders to return the cards to the FCC. We will provide pre-addressed envelopes that bidders may use to return the cards once the auction is over.

## **G. Mock Auction**

All qualified bidders will be eligible to participate in a mock auction on Friday, February 7, 2003. The mock auction will enable applicants to become familiar with the FCC Automated Auction System prior to the auction. Participation by all bidders is strongly recommended. Details will be announced by public notice.

## **IV. AUCTION EVENT**

Auction No. 47 will be held on Wednesday, February 12, 2003. The start and finish time of the bidding round will be announced in a later public notice, which will be released approximately 10 days before the start of the auction.

### **A. Auction Structure**

#### **1. Single Round Sealed Bid Auction**

In both the *Auction No. 47 Comment Public Notice* and *Auction No. 47 Revised Comment Public Notice*, we proposed to award all licenses in Auction No. 47 using a single-round sealed-bid auction design.<sup>36</sup> In its comments, Western Wireless objects to this design proposal and urges the Bureau instead to utilize a simultaneous multiple-round auction<sup>37</sup> or, if that is not possible, a “sealed-second-bid” single round design.<sup>38</sup> Western Wireless contends that there exists informational advantages to using these alternative auction formats.<sup>39</sup> We believe that due to the unusual circumstances of Auction No. 47, in which there are only two bidders, both of whom are very familiar with the areas to be licensed, these informational advantages are not necessary. Therefore, we conclude that it is operationally feasible and appropriate to auction the cellular unserved service area licenses through a single-round sealed-bid auction.

#### **2. Maximum Eligibility**

In both the *Auction No. 47 Comment Public Notice* and *Auction No. 47 Revised Comment Public Notice*, we proposed that the amount of the upfront payment submitted by a bidder would determine the maximum eligibility (as measured in bidding units) for each bidder.<sup>40</sup> We received no comments on this issue.

For Auction No. 47 we adopt this proposal. The amount of the upfront payment submitted by a bidder determines the number of bidding units on which a bidder may place bids. Note again that each license is assigned a specific number of bidding units equal to the upfront payment listed in Attachment A on a bidding unit per dollar basis. The total upfront payment defines the maximum number of bidding units on

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<sup>36</sup> See *Auction No. 47 Comment Public Notice* at 2; *Auction No. 47 Revised Comment Public Notice* at 2.

<sup>37</sup> Western Wireless Comments at 2.

<sup>38</sup> *Id.* at 8.

<sup>39</sup> *Id.* at 3-6.

<sup>40</sup> *Auction No. 47 Comment Public Notice* at 2; *Auction No. 47 Revised Comment Public Notice* at 2.

which the applicant will be permitted to bid. As there is no provision for increasing a bidder's maximum eligibility after the upfront payment deadline, prospective bidders are cautioned to calculate their upfront payments carefully. The total upfront payment does not affect the dollar amount a bidder may bid on any license.

### **3. Auction Delay or Cancellation**

In the *Auction No. 47 Comment Public Notice*, we proposed that, by public notice or by announcement during the auction, the Bureau may delay or cancel the auction in the event of natural disaster, technical obstacle, evidence of an auction security breach, unlawful bidding activity, administrative or weather necessity, or for any other reason that affects the fair conduct of competitive bidding.<sup>41</sup>

Because this approach has proven effective in resolving exigent circumstances in previous auctions, we adopt our proposed auction cancellation rules. By public notice or by announcement during the auction, the Bureau may delay or cancel the auction in the event of natural disaster, technical obstacle, evidence of an auction security breach, unlawful bidding activity, administrative or weather necessity, or for any other reason that affects the fair and competitive conduct of competitive bidding. In such cases, the Bureau, in its sole discretion, may elect to resume the auction or cancel the auction in its entirety. Network interruption may cause the Bureau to delay the auction. We emphasize that exercise of this authority is solely within the discretion of the Bureau.

#### **B. Bidding Procedures**

##### **1. Round Structure**

The single-round sealed-bid format will consist of one bidding round followed by the release of the auction results. The start and finish time of the bidding round will be announced in the public notice listing the qualified bidders, which is released approximately 10 days before the start of the auction.

##### **2. Reserve Price or Minimum Opening Bid**

*Background.* The Balanced Budget Act calls upon the Commission to prescribe methods by which a reasonable reserve price will be required or a minimum opening bid established when FCC licenses are subject to auction (*i.e.*, because they are mutually exclusive), unless the Commission determines that a reserve price or minimum opening bid is not in the public interest.<sup>42</sup> Consistent with this mandate, the Commission directed the Bureau to seek comment on the use of a minimum opening bid and/or reserve price prior to the start of each auction.<sup>43</sup> The Commission concluded that the Bureau should have the discretion to employ either or both of these mechanisms for future auctions.<sup>44</sup>

In both the *Auction No. 47 Comment Public Notice* and *Auction No. 47 Revised Comment Public Notice*, the Bureau proposed to establish minimum opening bids for Auction No. 47 in the amount of \$500 per

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<sup>41</sup> *Auction No. 47 Comment Public Notice* at 3.

<sup>42</sup> Balanced Budget Act, section 3002(a), 47 U.S.C. § 309(j)(4)(F).

<sup>43</sup> *Part 1 Third Report and Order*, 13 FCC Rcd 375, 455-456 ¶ 141 (1997).

<sup>44</sup> *Id.*

license.<sup>45</sup> The Bureau received no comments concerning this proposal. Therefore, the minimum opening bid for each license is set at \$500 and is set forth in Attachment A of this Public Notice.

### 3. Bidding

During the bidding round, a bidder may place bids in any whole dollar amount equal to or greater than the minimum opening bid for as many licenses as it wishes (subject to its eligibility). Bidders also have the option of making multiple submissions during the bidding round. If a bidder submits multiple bids for a single license in the same round, the system takes the last bid submitted as that bidder's bid.

Please note that all bidding will take place remotely either through the Automated Auction System or by telephonic bidding. (Telephonic bid assistants are required to use a script when entering bids placed by telephone. Telephonic bidders are therefore reminded to allow sufficient time to bid by placing their call well in advance of the close of the round. Normally, four to five minutes are necessary to complete a bid submission.) There will be no on-site bidding during Auction No. 47.

A bidder's ability to bid on specific licenses in the auction is determined by two factors: (1) the licenses applied for on FCC Form 175 and (2) the upfront payment amount deposited. The bid submission screens will allow bidders to submit bids on only those licenses for which the bidder applied on its FCC Form 175.

The Automated Auction System requires each bidder to be logged in during the bidding round using the bidder identification number provided in the registration materials, and the generated SecurID code. Bidders are strongly encouraged to print a bid confirmation after they submit their bids.

Finally, bidders are cautioned that they should type their bid amounts carefully because, even if mistakenly or erroneously made, bidders still assume a binding obligation to pay their full bid amount.<sup>46</sup>

### 4. Bid Removal and Bid Withdrawal

In the *Auction No. 47 Comment Public Notice*, we proposed bid removal and bid withdrawal procedures.<sup>47</sup> With respect to bid withdrawals, we proposed not to allow any bid withdrawals in Auction No. 47. We received no comments on this issue. Therefore, the Bureau adopts its proposal.

**Bid Removal Procedures.** Before the close of the bidding round, a bidder has the option of removing any bids placed in the round. By using the "remove bid" function in the bidding system, a bidder may effectively "unsubmit" any bid placed within the round.

### 5. Winning Bids and Tie Bids

At the end of the bidding round, the winning bids will be determined based on the highest gross bid amount received for each license. In the event of identical bids on a license (*i.e.*, tied bids), we proposed to allow an additional bidding round for bidders to submit higher bids for only the license(s) with tied bids. The Commission would announce the schedule for the subsequent round, via an announcement in

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<sup>45</sup> *Auction No. 47 Comment Public Notice* at 3; *Auction No. 47 Revised Comment Public Notice* at 2.

<sup>46</sup> *See* 47 C.F.R. § 1.2104(g)(2).

<sup>47</sup> *Auction No. 47 Comment Public Notice* at 4.

the Auctions Bidding System, concurrent with the release of round results. In the event of tied bids, we proposed to use a random number generator to select a high bid from among the tied bids. A random number will be assigned to each bid. The tie bid having the highest random number will become the high bid. The remaining bidder, as well as the high bidder, will be able to submit a higher bid in the next round. If neither bidder submits a higher bid, the high bid from the previous round will win the license. If any bids are received in the next round, the winning bid will be determined on the highest gross bid amount received for each license. We received no comments on this proposal. Therefore, we adopt our proposal.

## **6. Auction Announcements**

The FCC will use auction announcements to announce items such as the schedule for a subsequent round in the event of tied bids on a license. All FCC auction announcements will be available by clicking on a link in the Automated Auction System.

## **7. Maintaining the Accuracy of FCC Form 175 Information**

As noted in Part II.G., after the short-form filing deadline, applicants may make only minor changes to their FCC Form 175 applications. For example, permissible minor changes include deletion and addition of authorized bidders (to a maximum of three) and certain revision of exhibits. Applicants must make these modifications to their FCC Form 175 electronically and should submit a letter, briefly summarizing the changes, by electronic mail to the attention of Margaret Wiener, Chief, Auctions and Industry Analysis Division, at the following address: [auction47@fcc.gov](mailto:auction47@fcc.gov). The electronic mail summarizing the changes should include a subject or caption referring to Auction No. 47. The Bureau requests that parties format any attachments to electronic mail as Adobe<sup>®</sup> Acrobat<sup>®</sup> (pdf) or Microsoft<sup>®</sup> Word documents.

**A separate copy of the letter should be faxed to the attention of Kathryn Garland at (717) 338-2850.** Questions about other changes should be directed to Kenneth Burnley of the Auctions and Industry Analysis Division at (202) 418-0660.

## **V. POST-AUCTION PROCEDURES**

### **A. Down Payments**

After the auction has ended, the Commission will issue a public notice declaring the auction closed, identifying winning bidders and any down payments due.

Within ten business days after release of the auction closing notice, each winning bidder must submit sufficient funds (in addition to its upfront payment) to bring its total amount of money on deposit with the Government to 20 percent of its winning bids. *See* 47 C.F.R. § 1.2107(b).

### **B. Long-Form Applications**

Within an MX Group, the previously filed long-form applications(s) of the unsuccessful bidder will be dismissed following the grant of the winning bidder's license.

### **C. Tribal Land Bidding Credit**

A winning bidder that intends to use its license(s) to deploy facilities and provide services to federally-recognized tribal lands that are unserved by any telecommunications carrier or that have a telephone

service penetration rate equal to or below 70 percent is eligible to receive a tribal land bidding credit as set forth in 47 C.F.R. §§ 1.2107 and 1.2110(f).

A winning bidder applies for the tribal land bidding credit *after* winning the auction. Instructions for applying for this credit will be provided in a public notice after the close of the auction. Licensees receiving a tribal land bidding credit are subject to performance criteria as set forth in 47 C.F.R. § 1.2110(f).

For additional information on the tribal land bidding credit, including how the amount of the credit is calculated, applicants should review the Commission's rule making proceeding regarding tribal land bidding credits and related public notices.<sup>48</sup> Relevant documents can be viewed on the Commission's auctions web site at <http://wireless.fcc.gov/auctions> by clicking on the *Tribal Land Credits* link.

#### **D. Default and Disqualification**

Any winning bidder that defaults or is disqualified after the close of the auction (*i.e.*, fails to remit the required down payment within the prescribed period of time, fails to make full payment, or is otherwise disqualified) will be subject to the payments described in 47 C.F.R. § 1.2104(g)(2). In such event the Commission may re-auction the license or offer it to the next highest bidder (in descending order) at its final bid.<sup>49</sup> In addition, if a default or disqualification involves gross misconduct, misrepresentation, or bad faith by an applicant, the Commission may declare the applicant and its principals ineligible to bid in future auctions, and may take any other action that it deems necessary, including institution of proceedings to revoke any existing licenses held by the applicant.<sup>50</sup>

#### **E. Refund of Remaining Upfront Payment Balance**

Applicants that submitted upfront payments but were not a winning bidder for a license in Auction No. 47 may be entitled to a refund of their remaining upfront payment balance after the conclusion of the auction. All refunds will be returned to the payer of record, as identified on the FCC Form 159, unless the payer submits written authorization instructing otherwise.

Qualified bidders must submit a written refund request. If you have completed the refund instructions electronically, then only a written request for the refund is necessary. If not, the request must also include wire transfer instructions, Taxpayer Identification Number (TIN) and FCC Registration Number (FRN). Send refund request to:

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<sup>48</sup> See Extending Wireless Telecommunications Services to Tribal Lands, WT Docket No. 99-266, *Report and Order and Further Notice of Proposed Rule Making*, 15 FCC Rcd 11794 (2000); Wireless Telecommunications Bureau Announces Availability of Bidding Credits For Providing Wireless Services To Qualifying Tribal Lands, *Public Notice*, 15 FCC Rcd 18351 (2000); Wireless Telecommunications Bureau Releases Additional Information Regarding the Procedures for Obtaining a Tribal Lands Bidding Credit and List of Tribal Lands, *Public Notice*, DA 00-2836, (rel. December 14, 2000); Wireless Telecommunications Bureau Announces Enhancements to the Universal Licensing System to Help Winning Bidders of FCC Auctions File for Tribal Land Bidding Credits, *Public Notice*, DA 01-613, (rel. March 8, 2001).

<sup>49</sup> See 47 C.F.R. § 1.2109(b) and (c).

<sup>50</sup> See 47 C.F.R. § 1.2109(d).

Federal Communications Commission  
Financial Operations Center  
Auctions Accounting Group  
Gail Glasser or Tim Dates  
445 12th Street, SW, Room 1-C863  
Washington, DC 20554

Bidders are encouraged to file their refund information electronically using the refund information portion of the FCC Form 175, but bidders can also fax their information to the Auctions Accounting Group at (202) 418-2843. Once the information has been approved, a refund will be sent to the party identified in the refund information.

NOTE: Refund processing generally takes up to two weeks to complete. Bidders with questions about refunds should contact Tim Dates at (202) 418-0496 or Gail Glasser at (202) 418-0578.

**Media Contact:** Lauren Kravetz at (202) 418-7944

**Auctions and Industry Analysis Division:** Ken Burnley, Legal Branch, or Jeff Crooks, Auctions Operations Branch, at (202) 418-0660; Lisa Stover, Auctions Operations Branch, at (717) 338-2888

**Commercial Wireless Division:** Mike Kleeb, Licensing and Technical Analysis Branch, at (202) 418-0620; Amal Abdallah, Policy and Rules Branch, at (202) 418-7307 or Evan Baranoff, Policy and Rules Branch, at (202) 418-7142

– FCC –

**VI. ATTACHMENT A**

PLACE HOLDER

## VII. ATTACHMENT B

### ELECTRONIC FILING AND REVIEW OF THE FCC FORM 175

Applicants must submit their FCC Form 175 applications electronically. The FCC recommends submitting your Form 175 via the Internet. As a contingency, you can submit via the FCC Wide-Area Network. FCC Form 175 applications must be submitted and confirmed by **6:00 p.m. ET on Monday, January 13, 2003**. Late applications or unconfirmed submissions of electronic data will not be accepted.

Applicants must click the **SUBMIT Application** button on the *Submission* page to successfully submit their FCC Form 175. The electronic filing process consists of an initial filing period and a resubmission period to make minor corrections. During each filing period, submitted applications may be updated and amended multiple times until the filing deadline.

#### A. Software Requirements

Applicants will need to meet the following minimum software requirements:

Web Browser, either of the following:

- ◆ Microsoft® Internet Explorer 4.0 or higher (recommended). Your browser must have either Microsoft VM or Java Plug-In Version 1.3.1 installed.
- ◆ Netscape® Communicator™ 4.0 or higher, with Java Plug-In Version 1.3.1.

Java Plug-In Version 1.3.1 is available for downloading at <http://java.sun.com/getjava/download.html>.

PDF Viewer: Adobe Acrobat Reader 5.0 or higher (available at <http://www.adobe.com>)

If you wish to use the download feature on the Search Results page, you will need a .tar file extraction utility, e.g., Winzip (available at <http://www.winzip.com>) or Pkzip for Windows (available at <http://www.pkware.com/shareware>).

#### B. Submitting FCC Form 175 Applications

You can submit FCC Form 175 applications electronically via the Internet. Start your web browser and point it to either <https://auctions.fcc.gov/> (primary location) or <https://auctions2.fcc.gov/> (secondary location). On the FCC Auctions page, click **Form 175 Application & Search** to obtain the Form 175 Homepage.

**Note:** As a contingency, you may submit FCC Form 175 application amendments via the FCC Wide Area Network, using Dial-Up Networking. To access the Wide Area Network, configure your dial-up network to dial either **202-408-7835** or **717-338-0735**. These phone numbers are located in the Washington, DC, and Gettysburg, PA, metropolitan areas, respectively.

## 1. Logging On

The Form 175 Homepage has a Form 175 Logon area at the top right. This area provides fields that let you identify yourself to the system. In these fields, type your assigned FRN (*without* the hyphens) and the password you created in CORES, respectively, then click the **Logon** button.

Once you have logged on with your FRN, you can click the **New Form** link to obtain the *Profile* page for the auction.

## 2. Uploading Attachments

When uploading attachments from the Form 175 *Attachments* page, you may use a variety of file formats--including Word 2000 or earlier, WordPerfect 6.x or earlier, Adobe PDF, and ASCII text--and you should verify that the files contain all exhibit information. Also note the following about files to be uploaded:

- Files may be no larger than 1.5 Mb.
- Graphics files (e.g., *.bmp*, *.tiff*, *.jpg*) and spreadsheets (e.g., Excel, Lotus) are not supported.
- Word processing files that are uploaded may not contain graphic images.
- You may include hyphens (-) and underscore (\_) symbols in the name of a file to be uploaded, but do not use other punctuation marks or blank spaces. The FCC system will not be able to convert that file.
- The path to a file (i.e., the file name and its directory) must not exceed 60 characters.
- Do not upload a password-protected file. The FCC system will not be able to open it or convert it.
- Do not include your TIN in any attachment to be uploaded. Contents of attachments become public once the Status PN is released.

The system converts each uploaded attachment to PDF format. (The conversion process generally completes within 30 minutes.) Until the system has converted your file to PDF format, the description field shows *Not converted*.

Repeat this procedure for each additional attachment you want to add. When you have finished adding attachments, click the **Continue to CERTIFICATION** button to obtain the *Certification* page.

### a. Unreadable Attachment Files

If you are unable to read an attachment file after it has been converted, please do the following:

1. Re-upload the attachment.

2. If the file still has not been converted properly, then simplify the formatting of the file.

For example, if you are using a Table structure in a WordPerfect document, remove the Table structure and leave the contents of the table, then re-upload the attachment.

After you have successfully re-uploaded an attachment, please delete the old, unreadable attachment files using their **Delete** links.

### **3. Completing the Submission Procedure**

Applicants must press the **SUBMIT Application** button on the *Submission* page to successfully submit their FCC Form 175. Pressing **SUBMIT Application** produces a *Submission Confirmation* page showing the assigned FCC Account Number. During each filing period, submitted applications may be updated and amended multiple times until the filing deadline.

#### **C. Reviewing FCC Form 175 Applications**

Once the FCC has completed the 175 Review process, you can view FCC Form 175 applications electronically by searching for them in the FCC database. Start your web browser and point it to either <https://auctions.fcc.gov/> (primary location) or <https://auctions2.fcc.gov/> (secondary location). Click the **Form 175 Application & Search** link, then click the **SEARCH** link at the top of the page. When the *Form 175 Search* page appears, select the search criteria you want and then click the **Submit** button.

#### **D. Help**

For technical assistance with using FCC software, contact the FCC Technical Support Hotline at (202) 414-1250 (V) or (202) 414-1255 (TTY). The FCC Technical Support Hotline is generally available Monday through Friday from 8 a.m. to 6 p.m. ET. *All calls to the FCC Technical Support Hotline are recorded.*

You can also contact Technical Support via e-mail. To obtain the address, click the **Support** tab on the Form 175 Homepage.

## VIII. ATTACHMENT C

### GUIDELINES FOR COMPLETION OF FCC FORM 175 AND EXHIBITS

#### A. FCC Form 175

Because of the significance of the FCC Form 175 application to the auction, bidders should especially note the following:

**Applicant:** Name given is used as your bidder name in the auction.

**Address:** Applicants must provide a street address (not a Post Office box number) for the applicant, suitable for mail or private parcel delivery.

**Legal Classification:** Applicants must indicate their legal classification. The FCC Form 175 requires the applicant to classify itself as an individual, joint venture, partnership, trust, corporation, consortium, association, limited liability corporation (LLC) or government entity.

**Applicant Status:** Applicants are requested to indicate their status as a rural telephone company, minority- and/or women-owned business, so that the FCC can monitor its performance in promoting economic opportunities for these designated entities.

**Contact person/address:** If the Commission wishes to communicate with the applicant by telephone or fax, those communications will be directed to the contact person identified on the FCC Form 175. Space is provided for an address, telephone number, fax number, and e-mail address. All written communication and registration information will be directed to the applicant's contact person at the address specified on the FCC Form 175. Applicants must provide a street address; **no P.O. Box addresses may be used.**

**Authorized Bidders:** Applicants must list the name(s) of the person(s) (no more than three) authorized to represent them at the auction. Only those individuals listed on the FCC Form 175 will be authorized to place bids for the applicant during the auction.

**Bidding Credit Eligibility:** Bidding Credits for designated entities are not available for cellular unserved area licenses.<sup>51</sup>

**Telephonic or Electronic Bidding Options:** Bidders may participate in the auction either electronically or telephonically, and must specify their preference. To participate in the auction, every authorized bidder must have a SecurID card, which the FCC will provide free of charge.

**License Selection:** Applicants should select all licenses on which they want to be eligible to bid in the auction. Be advised that there is no opportunity to change this list once the short-form filing deadline passes on January 13, 2003. It is critically important that you confirm the licenses that you have selected because the auction system will not accept a bid on licenses for which an applicant has not applied on its

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<sup>51</sup> Implementation of Section 309(j) of the Communications Act – Competitive Bidding, PP Docket No. 93-253, Amendment of Part 22 of the Commission's Rules to Provide for the Filing and Processing of Applications for Unserved Areas in the Cellular Service and to Modify Other Cellular Rules, CC Docket No. 90-6, *Ninth Report and Order*, 11 FCC Rcd 14769, 14791, ¶ 45 (1996) (“*Competitive Bidding Ninth Report and Order*”).

FCC Form 175.

**B. Exhibits and Attachments**

In addition to the FCC Form 175 itself, applicants must submit additional information required by the FCC’s rules. If attachments are not uploaded, the FCC Form 175 submission process cannot be completed. Although the FCC does not require a particular format for this information, it has developed the following guidelines that will facilitate the processing of short-form applications. The FCC encourages applicants to submit this information using the following format.

**If you find that an attachment has not converted properly to Adobe PDF format, take the following steps:**

- 1) *Simplify the formatting of the file. For example, if using a Table structure in a WordPerfect document, remove the Table structure leaving the contents of the table, re-save the document.*
- 2) *Re-upload the attachment.*
- 3) *When the re-uploaded attachment has successfully converted, delete the failed attachment.*

**NOTE: Applicants should not list their TIN numbers on any exhibits to their FCC Form 175s.**

**Exhibit A -- Applicant Identity and Ownership Information:** 47 C.F.R. § 1.2105(a)(2)(ii) requires each applicant to fully disclose the real party or parties-in-interest in an exhibit to its FCC Form 175 application. The following information is required:

**1. General Information**

<i>Applicant Status</i>	<i>Required Information</i>
General Partnership	Name, citizenship, and address of all partners, and the share or interest participation of each partner
Limited Partnership	Name, citizenship, and address of each limited partner whose interest in the applicant is equal to or greater than 10 percent (as calculated according to the percentage of equity paid in and the percentage of distribution of profits and losses)
Corporation	Corporate name and address; name, title, and citizenship of a responsible officer or director
Limited Liability Corporation	Corporate name and address; name, address, and citizenship of all members whose interest in the applicant is equal to or greater than 10 percent (as calculated according to the percentage of equity paid in and the percentage of distribution of profits and losses)
Trust	Name, citizenship, and address of trustee
None of the above	Name, citizenship, title or other relation to the applicant, and address of a principal or other responsible person

## 2. Ownership Information

### *Applicant Status*

All applicants

### *Required Information*

Name, citizenship, and address of all controlling interests of the applicant as discussed in Section 1.2110 of the Commission's rules.

All applicants

Name, citizenship, and address of all parties holding 10 percent or more of each class of stock, warrants, options or debt securities and the amount and percentage held.

All applicants

Name of all parties holding a 10 percent or greater interest in the applicant and the specific amount held.

All applicants

List of all parties holding indirect ownership interests in the applicant that equals 10 percent or more, as determined by successive multiplication of the ownership percentages in each link of the vertical ownership chain, except that if the ownership percentage for any link in the chain exceeds 50 percent or represents actual control, it shall be reported as if it were a 100 percent interest.

*Example.* Company A owns 10% of Company B, which owns 60% of Company C, which owns 25% of the applicant. Company B's interest in the applicant would be 25% (the same as Company C's interest since Company B's interest in Company C exceeds 50%), and Company A's interest in the applicant would be 2.5% ( $0.1 * 0.25$ ). Under the 10% attribution benchmark, Company B's interest in the applicant must be reported on the applicant's FCC Form 175 Exhibit A, while Company A's interest in the applicant need not be reported. However, if Company A owned 40% of Company B in the above example, then Company A's interest in the applicant would be 10% ( $0.4 * 0.25$ ), and the applicant would need to report it on the applicant's FCC Form 175 Exhibit A

All applicants

List of any FCC-regulated entity or applicant for an FCC license, in which

- a. the applicant;
- b. any party with a 10 percent or greater interest in the applicant; or
- c. a controlling interest (as discussed in Section 1.2110 of the Commission's rules)

owns a 10 percent or greater interest of the applicant or 10 percent or more of any class of stock, warrants, options or debt securities of the applicant. (*See also* 47 C.F.R. § 1.2110) This list must include a description of each such entities' principal business and a description of each such entities' relationship to the applicant.

*Example of a.* The applicant owns 10 percent of Company A (an FCC regulated entity or an applicant for an FCC license). The applicant must list Company A on its FCC Form 175 Exhibit A and provide the required

## ***Applicant Status***

## ***Required Information*** information.

*Example of b.* Company A owns 10 percent of the applicant and 10 percent of Company B (an FCC regulated entity or an applicant for an FCC license). The applicant must list both Company A and Company B on its FCC Form 175 Exhibit A and provide the required information.

*Example of c.* Company A owns 55% of the applicant and owns 10 percent of Company B (an FCC regulated entity or an Applicant for an FCC license). The applicant must list both Company A and Company B on its FCC Form 175 Exhibit A and provide the required information.

**Exhibit B – Agreements with Other Parties/Joint Bidding Arrangements:** Applicants must attach an exhibit identifying all parties with which they have entered into any agreements, arrangements or understandings which relate in any way to the licenses being auctioned, including any relating to the post-auction market structure. *See* 47 C.F.R. §1.2105(a)(2)(viii).

Be aware that pursuant to Certification (4) on the FCC Form 175, the applicant certifies that it will not enter into any explicit or implicit agreements or understandings of any kind with parties not identified in the application regarding bid amounts, bidding strategies, or the particular licenses the applicant will or will not bid. *See* 47 C.F.R. § 1.2105(a)(2)(ix). *To prevent collusion, the Commission’s Rules generally prohibit competing applicants from communicating concerning bids, bidding strategies, or settlements during the period between the initial short-form applications filing deadline and the deadline for down payments on licenses won in the auction.* 47 C.F.R. § 1.2105(c).

**Exhibit C – Information Required of All Applicants Regarding Prior Defaults and Prior Delinquencies:** Each applicant must include as Exhibit C a statement made under penalty of perjury indicating whether or not the applicant, its affiliates, its controlling interests, or the affiliates of its controlling interest have ever been in default on any Commission licenses or have ever been delinquent on any non-tax debt owed to any Federal agency. The applicant must provide such information for itself, its affiliates, its controlling interests, and the affiliates of its controlling interests as defined by Section 1.2110 of the Commission’s rules (as amended in the *Part 1 Fifth Report and Order*).

**Exhibit D -- Information Requested of Designated Entities:** Applicants owned by minorities or women, as defined in 47 C.F.R. § 1.2110(c), or that are rural telephone companies, may attach an exhibit regarding this status. This information, in conjunction with the information requested on the FCC Form 175, will assist the Commission in monitoring the participation of these “designated entities” in its auctions.

**Exhibit E -- Miscellaneous Information:** Applicants wishing to submit additional information should include it in Exhibit E.

**Waivers:** Applicants requesting waiver of any rules must submit a statement of reasons sufficient to justify the waiver sought. *See* 47 C.F.R. §§ 1.3, 1.925.

**Certifications:** Applicants should carefully read the list of certifications on the FCC Form 175. These certifications help to ensure a fair and competitive auction and require, among other things, disclosure to the Commission of certain information on applicant ownership and agreements or arrangements concerning the auction. Submission of an FCC Form 175 application constitutes a representation by the

certifying official that he or she is an authorized representative of the applicant, has read the form's instructions and certifications, and that the contents of the application and its attachments are true and correct. Submission of a false certification to the Commission may result in penalties, including monetary forfeitures, license forfeitures, ineligibility to participate in future auctions, and/or criminal prosecution.

**Completeness:** Applicants must submit all information required by the FCC Form 175 and by applicable rules. Failure to submit required information by the resubmission date will result in dismissal of the application and inability to participate in the auction. *See* 47 C.F.R. § 1.2105(b).

**NOTE: Applicants must press the “SUBMIT Application” button on the “Submission” page to successfully submit their FCC Form 175.**

**Continuing Accuracy:** Each applicant is responsible for the continuing accuracy and completeness of information furnished in the FCC Form 175 and its exhibits. *See* 47 C.F.R. § 1.65. It is the FCC's position that during the conduct of an auction, thirty business days from a reportable change is a reasonable period of time. Applicants are reminded that they consent to be audited in the certification section of the FCC Form 175 (see certification item number 6).

Applicants are reminded that all information required in connection with applications to participate in spectrum auctions is necessary to determine the applicants' qualifications, and as such will be available for public inspection. Required proprietary information may be redacted, or confidentiality may be requested, following the procedures set forth in 47 C.F.R. § 0.459. Such requests must be submitted by electronic mail to the attention of Margaret Wiener, Chief, Auctions and Industry Analysis Division, at the following address: [auction47@fcc.gov](mailto:auction47@fcc.gov), in which case the applicant must indicate in Exhibit E that it has filed a confidentiality request. Because the required information bears on applicants' qualifications, the FCC envisions that confidentiality requests will not be routinely granted.

The electronic mail summarizing the request should include a subject or caption referring to Auction No. 47. The Bureau requests that parties format any attachments to electronic mail as Adobe® Acrobat® (pdf) or Microsoft® Word documents.

**A separate copy of the letter should be faxed to the attention of Kathryn Garland at (717) 338-2850.**

IX. ATTACHMENT D

**AUCTION-SPECIFIC INSTRUCTIONS FOR  
FCC REMITTANCE ADVICE (FCC FORM 159-February 2000 edition)**

**A. Upfront Payments**

The following information supplements the standard instructions for FCC Form 159 (Revised 2/00), and is provided to help ensure correct completion of FCC Form 159 for upfront payments for Auction No. 47. Applicants need to complete FCC Form 159 carefully, since:

- **Mistakes may affect their bidding eligibility; and**
- **Lack of consistency between information set forth in FCC Form 159 (Revised 2/00), FCC Form 175, long-form application, and correspondence about an application may cause processing delays.**

Therefore appropriate cross-references between the FCC Form 159 Remittance Advice and the FCC Form 175 Short Form Application are described below:

Block Number	Required Information
1	LOCKBOX # - Enter "358410"
2	Payer Name - Enter the name of the person or company making the payment. If the applicant itself is the payer, this entry would be the same as FCC Form 175.
3	Total Amount Paid - Enter the amount of the upfront payment associated with the FCC Form 159 (Revised 2/00).
4-8	Street Address, City, State, ZIP Code - Enter the street mailing address (not Post Office box number) where mail should be sent to the payer. If the applicant is the payer, these entries would be the same as FCC Form 175 from the Applicant Information section.
9	Daytime Telephone Number - Enter the telephone number of a person knowledgeable about this upfront payment.
10	Country Code - For addresses outside the United States, enter the appropriate postal country code (available from the Mailing Requirements Department of the U.S. Postal Service).
11	Payer FRN – Enter the payer’s ten-digit FCC Registration Number (FRN) registered in the Commission Registration System (CORES).
12	Payer TIN – Enter the payer’s nine-digit Taxpayer Identification Number (TIN).
24A	Payment Type Code - Enter "A47U"

- 25A            Quantity - Enter the number “1”
- 26A            Fee Due - Amount of Upfront Payment
- 27A            Total Fee - Will be the same amount as 26A.
- 28A            FCC Code 1 - Enter the number “47” (indicating Auction No. 47).

NOTES:

- Do not use Remittance Advice (Continuation Sheet), FCC Form 159-C, for upfront payments.
- If applicant is different from the payer, complete blocks 13 through 22 for the applicant, using the same information shown on FCC Form 175. Otherwise leave them blank.
- Since credit card payments will not be accepted for this auction, leave Section E blank.

**B.        Winning Bidder Requirements, Down Payments and Final Payments**

Specific information regarding down payments and final payments will be included in a post-auction public notice announcing the winning bidders.

X. ATTACHMENT E

**SUMMARY LISTING OF DOCUMENTS FROM THE COMMISSION  
AND THE WIRELESS TELECOMMUNICATIONS BUREAU  
ADDRESSING APPLICATION OF THE ANTI-COLLUSION RULES**

**A. Commission Decisions:**

*Second Report and Order* in PP Docket No. 93-253, FCC 94-61, 9 FCC Rcd. 2348, 2386-2388 (1994), paragraphs 221-226.

*Fifth Report and Order* in PP Docket No. 93-253, FCC 94-178, 9 FCC Rcd. 5532, 5570-5571 (1994), paragraphs 91-92.

*Fourth Memorandum Opinion and Order* in PP Docket No. 93-253, FCC 94-264, 9 FCC Rcd. 6858, 6866-6869 (1994), paragraphs 47-60.

*Second Memorandum Opinion and Order* in PP Docket No. 93-253, FCC 94-215, 9 FCC Rcd. 7245, 7253-7255 (1994), paragraphs 48-55.

*Memorandum Opinion and Order* in PP Docket No. 93-253, FCC 94-295, 9 FCC Rcd. 7684, 7687-7689 (1994), paragraphs 8-12.

In re Commercial Realty St. Pete, *Notice of Apparent Liability for Forfeiture*, 10 FCC Rcd. 4277 (1995),  
In re Commercial Realty St. Pete, *Memorandum Opinion and Order*, 11 FCC Rcd. 15,374 (1996).

In re Applications of Mercury PCS II, LLC, *Notice of Apparent Liability for Forfeiture*, 12 FCC Rcd. 17,970 (1997) (petition for partial reconsideration pending).

Amendment of Part 1 of the Commission's rules -- Competitive Bidding Procedures, Allocation of Spectrum Below 5 GHz Transferred from Federal Government Use, 4660-4685 MHz, WT Docket No. 97-82, ET Docket No. 94-32, FCC 97-413, *Third Report and Order and Second Further Notice of Proposed Rule Making*, 13 FCC Rcd. 374, 463-469 (1997), paragraphs 155-166.

In re Application of US West Communications, Inc., *Notice of Apparent Liability for Forfeiture*, 13 FCC Rcd 8286 (1998); In the Matter of Notice of Apparent Liability for Forfeiture of US West Communications, Inc., *Order*, FCC 99-90 (May 7, 1999).

In re Application of Western PCS BTA I Corporation, *Notice of Apparent Liability for Forfeiture*, FCC 98-42 (March 16, 1998); In the Matter of Notice of Apparent Liability for Forfeiture of Western PCS BTA I Corporation, *Memorandum Opinion and Order*, 14 FCC Rcd 21571, 21577-78, ¶ 20 (rel. Dec. 13, 1999).

In the Matter of Amendment of Part 1 of the Commission's Rules—Competitive Bidding Procedures, *Seventh Report and Order*, 16 FCC Rcd 17546 (2001).

## **B. Wireless Telecommunications Bureau Decisions:**

Amendment of Parts 21 and 74 of the Commission's rules with Regard to Filing Procedures in the Multipoint Distribution Service and in the Instructional Television Fixed Service, *Order*, 11 FCC Rcd. 9655 (Wireless Tel. Bur. 1995).

In re Applications of GWI PCS, Inc. For Authority to Construct and Operate Broadband PCS Systems Operating on Frequency Block C, *Memorandum Opinion and Order*, 12 FCC Rcd. 6441 (Wireless Tel. Bur. 1997).

In re Applications of Mercury PCS II, LLC, For Facilities in the Broadband Personal Communications Services in the D, E, and F Blocks, *Memorandum Opinion and Order on Reconsideration*, 12 FCC Rcd. 18,093 (Wireless Tel. Bur. 1997).

In the Matter of Applications of High Plains Wireless, L.P., For Authority to Construct and Operate Broadband PCS Systems on Frequency Blocks D, E, and F, *Memorandum Opinion and Order*, 12 FCC Rcd. 19,627 (Wireless Tel. Bur. 1997).

In the Matter of Applications of Mercury PCS II, LLC, For Authority to Construct and Operate Broadband PCS Systems on Frequency Blocks D, E, and F, *Memorandum Opinion and Order*, 13 FCC Rcd. 5756 (Wireless Tel. Bur. 1997).

### **1. Public Notices:**

Wireless Telecommunications Bureau Clarifies Spectrum Auction Anti-Collusion Rules, *Public Notice*, 11 FCC Rcd. 9645 (1995).

FCC Staff Clarifies Application of Anti-Collusion Rule to Broadband PCS 'C' Block Reauction, *Public Notice*, 11 FCC Rcd. 7031 (1996).

Wireless Telecommunications Bureau Provides Guidance on the Anti-Collusion Rule for D, E and F Block Bidders, *Public Notice*, 11 FCC Rcd. 10,134 (1996).

Wireless Telecommunications Bureau Responds to Questions About the Local Multipoint Distribution Service Auction, *Public Notice*, DA 98-37 (rel. January 9, 1998).

### **2. Letters from the Office of General Counsel and the Wireless Telecommunications Bureau:**

*Letter to Gary M. Epstein and James H. Barker from William E. Kennard, General Counsel, Federal Communications Commission* (released October 25, 1994).

*Letter to Alan F. Ciamporcero from William E Kennard, General Counsel, Federal Communications Commission* (released October 25, 1996).

*Letter to R. Michael Senkowski from Rosalind K. Allen, Acting Chief, Commercial Radio Division, Wireless Telecommunications Bureau* (released December 1, 1994).

*Letter to Leonard J. Kennedy from Rosalind K. Allen, Acting Chief, Commercial Radio Division, Wireless*

*Telecommunications Bureau* (released December 14, 1994).

*Letter to Jonathan D. Blake and Robert J. Rini from Kathleen O'Brien Ham, Chief, Auctions Division, Wireless Telecommunications Bureau, DA 95-2404* (released November 28, 1995).

*Letter to Mark Grady from Kathleen O'Brien Ham, Chief, Auctions Division, Wireless Telecommunications Bureau, 11 FCC Rcd. 10,895* (1996).

*Letter to David L. Nace* <sup>8</sup>  
*from Kathleen O'Brien Ham, Chief, Auctions Division, Wireless Telecommunications Bureau, 11 FCC Rcd. 11,363* (1996).

*Letter to Elliott J. Greenwald from Christopher J. Wright, General Counsel, Federal Communications Commission* (released April 6, 1998).

*Letter to Robert Pettit, Wiley, Rein & Fielding from Margaret W. Wiener, Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, DA 00-2905* (released December 26, 2000).

### **3. Civil Actions Initiated by U.S. Department of Justice:**

*U.S. v. Omnipoint Corp.*, Proposed Final Judgements and Competitive Impact Statements, Department of Justice, 63 FR 65,228 (November 25, 1998).

“Justice Department Sues Three Firms Over FCC Auction Practices,” *Press Release, U.S. Department of Justice* (November 10, 1998).

Complaint, *U.S. v. Omnipoint Corp.*, No. 1:98CV02750 (D.D.C. November 10, 1998).

Complaint, *U.S. v. Mercury PCS II, L.L.C.*, No. 1:98CV02751 (D.D.C. November 10, 1998).

Complaint, *U.S. v. 21st Century Bidding Corp.*, No. 1:98CV02752 (D.D.C. November 10, 1998).

#### **How to Obtain Copies of the Anti-Collusion Decisions:**

Many of the documents listed in this attachment can be retrieved from the following Commission web site: <http://wireless.fcc.gov/auctions/anticollusion>.

The documents may be located by using our search engine (select the link “search”). Documents retrieved from the web site are available in various formats including Word, WordPerfect, Acrobat Reader, Excel, and ASCII Text. To review a document in its entirety, including footnotes, it is necessary to access the document in WordPerfect, MS Word, or Acrobat Reader.

Additionally, all of the documents can be ordered in hard copy for a fee from the Commission’s contractor, Qualex International at (202) 863-2893.